No. 09-283

Supreme Court, U.S.
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In The

Supreme Court of the United States

ROGER REEVES,

Petitioner,

vs.

DSI, et al.,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITION FOR REHEARING

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PETITION FOR REHEARING

Pursuant to Rule 44.1, petitioner respectfully petitions this court for rehearing.

I.

Since the words of the Plaintiff are to be believed and all inferences are to be drawn in the light most favorable to the Plaintiff and this standard was not used to adjudicate Plaintiff's case before District Court and Appellate Court, Plaintiff is asking for a rehearing.

District and Appellate Courts have not followed their own standard and standard of other District and Appellate Courts when adjudicating this matter. (See Writ pages 6-19).

If the decision to not hear the Writ is allowed to stand a discrimination claim of race, religion, and disparity impact would be allowed to stand without being adjudicated. This would allow the Court to decide what claims they want to adjudicate and what claims they do not want to hear. The claims that should be heard are those alleged by the Plaintiff. The EEOC and Court have a "Mandate" to adjudicate and eliminate claims of Race, Religion, Sex, and Discrimination etc. in the work place.

If this court and other courts and EEOC fail to do so we the American public have no rights within the law. I "PRAY" my rights and the rights of others would not be trampled on in such a manner.

If the Writ is not Granted and the question of Dual Employer is not decided all cases regarding Dual Employers in the Eleventh Circuit would be decided in error and Defendants allowed to prevail in well meritorious cases. This Court and other circuits have used the "who control the employee" as the overriding factor. (Mathieu v. Norrell Corp. et al., 2004 WL 309175 (Feb. 19, 2004), CAL App. 2 Dist.) (Gaines v. Department of the Army, EEOC APPEAL No. 01A53152 (July 6, 2006) (Piano v. Ameritech, N.D. Ill. No. 02-6-3337 (2/5/03)).

Defendants only answered the claim of wages which was refuted. They did not answer race, religion, disparity impact, discriminatory hours, failure to accommodate, and pretext. Courts nor Defendants answered these charges "A Prima Facie Case was made in all these Acts".

The law states that the court must look at case for Pretext. To not allow the Writ would permit Court to not adjudicate well meritorious cases. Plaintiff would be greatly prejudiced in all cases that would be filed after (Farrell v. Planters Lifesavers Co., 206 F.3d 2.1 (3rd Cir. 2000) (Roger Reeves, Petitioner v. Sanderson Plumbing Products, Inc., U.S. Supreme Court, No. 99-536 (June 12, 2000)).

The fact that they did not give a raise to Plaintiff because they did not give other Guards raises does not precludes a Prima Facie Case. All of the Guards should have been given a raise. I was the only one that raised the issues. The rate was low and a raise was not given in over four years and was given to

plant workers under the same manager for at least three times during this period. Plaintiff was discriminated against and all Guards because they were black, most of the time. There is an issue of why the "*Black*" Guards never received a raise and were not told the truth about the length of the Contract. District and Appellate Courts did not use standard method when deciding this case but only looked at one phase. They did not take total information into effect. DSI did mendacious lying about the contract and length of the Contract, Dislike of former Employee (Mr. Johnson) (a religious pentecostal), and lying about knowing I had any religion. All of these would preclude Summary Judgment for the Defendant. These more than hint that Defendant(s) could have had a discriminating motive for not giving Plaintiff a raise as well as discrimination in other areas related to pay, religion, and race. A Prima Facie Case has been made.

As stated to EEOC and in Summary Judgment, reports for Plaintiff Plant workers receive three on time raises but black Guard(s) did not receive any after being told a three year contract was in fact a one year contract. Defendants did not want to give a Guard but any Guard a raise. Disparity impact with a Prima Facie Case is proven which courts have failed to adjudicate. Because their unawareness of the Contract and the number of years they had two to my five they were not exactly similarly situated also.

The answer for Summary Judgment for Plaintiff and answer to Magistrate Judge Report against DSI and American states that DSI nor American gave

Guards (Blacks most of the time) a raise. This answered defendants that they never gave anyone a raise so they were not discriminatory. My original request for disparity impact negates that argument. All Guards should have received a raise per their statement (lying) that it was a three year contract.

CONCLUSION

In light of Appellate and District Court not following normal procedure and looking at all charges in the following (Haywood Williams, Jr. v. Federal Bureau of Prisons and Parole Commission Appellate for the Third District No. 00-1986) (Nov. 7, 2003)

(1) Religious Discrimination not allowing Plaintiff time off for religious observance and allowing white person time off and other black person; not allowing religious accommodation; lying about knowing Plaintiff having "any" religious Affiliation (Pretext Summary Judgment for Plaintiff)

(2) ALL ACTS OF FRAUD, DECEPTION, COVENANT OF GOOD FAITH District and Appellate Court failed to follow normal and correct procedure in evaluating fraud and Deception in the Contract that DSI said they had with American. DSI told Guards that it was a three year contract and court documents shows that they were not truthful and it was a one year contract. They were deceptive and fraudulent as per ALA Tort Statutes

and Alabama Fraud, Misrepresentation and Deceit Statutes (Article 8) (See Writ page 2)

(3) Dual Employee

Courts did not follow other Circuits and EEOC. Company American controls what to be done on premises and how it was to be done per their own Post Orders. (Gaines v. Department of the Army, EEOC Appeal No. 01A53152 July 6, 2006)

(4) Claims of Retaliation not adjudicated

(5) Race, Religion, Disparity impact never adjudicated

(6) Incorrectly evaluated Pay Discrimination

(7) Never examine in light of Pretext

(8) Hostile Work Environment. Plaintiff in EEOC and District Court documents stated a hostile work environment. (See Appellate Court Brief). Court was obligated to look at it since it was stated (implied) in EEOC Documents to intake person. (Confederate Flag worn, sewed on Plant worker shirts; refusal to answer CB when black person called until the third or fourth call or not at all. Management not liking Plaintiff's bible. Plaintiff ridiculed when plant worker named Roger died. (Green v. Elixer Industries, Inc., 407 F.3d 1163, 95 FEP 1151 (11th Cir. 2005)).

For the above reasons the Writ should be granted.

Respectfully submitted,

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CERTIFICATION

I hereby certify that this Petition for Rehearing is submitted in good faith and not for delay. This Petition for Rehearing is restricted to the grounds set out in Rule 44.2

_____
Roger Reeves